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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

ROBERT "BOB" BURNS - Chairman
 ANDY TOBIN
 BOYD DUNN
 SANDRA D. KENNEDY
 JUSTIN OLSON

FEB 7 2019

DOCKETED BM

In the matter of:

TITAN FUNDING GROUP I, LLC, an
 Arizona limited liability company,

TITAN CAPITAL REAL ESTATE FUND
 I, LLC, a Delaware limited liability
 company

TITAN CAPITAL HOLDINGS LLC, a
 Nevada limited liability company,

ADAM W. CHILD and ERIN M. CHILD,
 husband and wife,

RODERICK R. RICKERT, a single man,

Respondents.

DOCKET NO. S-21054A-18-0301

DECISION NO. 77068

**ORDER TO CEASE AND DESIST, ORDER
 FOR RESTITUTION AND CONSENT TO
 SAME**

**BY: RESPONDENTS TITAN FUNDING
 GROUP I, LLC AND TITAN CAPITAL
 HOLDINGS LLC**

Respondents Titan Funding Group I, LLC ("TFG") and Titan Capital Holdings LLC ("Titan Capital"); TFG and Titan Capital, collectively, "Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease and Desist, Order for Restitution and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

I.**FINDINGS OF FACT**

1. Titan Capital was formed in Nevada on September 8, 2010. Titan Capital has been registered to do business in Arizona as a foreign entity since December 28, 2010. The original Articles

1 of Organization filed with the Nevada Secretary of State and the corporate filings with the Commission
2 list respondent Roderick Rickert as the managing-member of Titan Capital.

3 2. TFG was formed in Arizona on July 7, 2011, as a member-managed company with Titan
4 Capital as the sole member-manager.

5 3. TFG lists Roderick Rickert and respondent Adam Child among the “key managers and
6 employees” in materials given to the investors and offerees described below. During the timeframe
7 relevant to this Notice, Adam Child was TFG’s president.

8 4. On February 1, 2016, Titan Capital, TFG, and other related entities petitioned for
9 receivership in Maricopa County Superior Court, Case. No. CV2016-004477. On March 4, 2016, the
10 court appointed Peter Davis as receiver (“Receiver”) of Titan Capital, TCH, and the other entities.

11 5. While managing the receivership, the Receiver was able to liquidate assets of Titan
12 Capital, TFG, and TCREF. From the proceeds of these assets, the Receiver has sought court approval
13 to distribute a total of \$148,340.81 to the approved creditors of Titan Capital, TFG, and TCREF, with
14 \$28,643.17 going to Titan Capital creditors, \$39,740.96 going to TFG investors and \$79,956.68
15 going to TCREF investors.

16 6. Titan Capital Real Estate Fund I, LLC (“TCREF”) is a Delaware limited liability
17 company formed on September 4, 2013. It did not register as a foreign entity in Arizona.

18 7. In its operating agreement, TCREF states that it is managed by TCG Management LLC,
19 also a Delaware company. Private placement memorandums for TCREF list Child and Rickert among
20 its key managers and employees. TCREF’s marketing materials describe TCREF’s executive team, with
21 Rickert as the CEO and Child as the President. In its private placement memorandum, TCREF says that
22 Titan Capital will originate loans on behalf of TCREF.

23 8. TCREF was not a petitioner for receivership. But because TCREF is related to Titan
24 Capital, TFG and the other entities that petitioned for receivership, the Receiver evaluated TCREF along
25 with those entities to determine TCREF’s assets, liabilities, and capital contributions.

1 **The Titan entities' business operations and sale of securities**

2 9. In 2010, Rickert operated a business that assisted people in buying foreclosure
3 properties. Doing business as "INFOclosure," Rickert's company produced software that listed
4 distressed properties being sold at foreclosure auctions. INFOclosure also assisted with purchasing the
5 properties at auction.

6 10. In late 2010, Rickert created Titan Capital to make hard-money loans—i.e. loans of
7 typically less than 24 months with relatively higher interest rates—to purchasers of real property,
8 including foreclosure properties. The typical borrower would use the funds to "fix-and-flip" a property,
9 i.e. purchase a foreclosed, bank-owned or short-sale, single-family property, perform maintenance and
10 reconstruction, then sell the property. Titan Capital would secure its loan to these borrowers with a
11 mortgage or deed of trust recorded on the property. Titan Capital hired Adam Child to be its president
12 in early 2011 to operate this lending business.

13 11. In 2013, Rickert and Child created TFG and TCREF to raise funds for Titan Capital's
14 lending operations. TFG and TCREF would obtain funds from investors, pool those funds, then transfer
15 funds to Titan Capital. Titan Capital would make loans to persons to purchase properties to "fix-and-
16 flip" and Titan Capital held a first-position lien on such property. Titan Capital also lent money to
17 persons to perform construction on the properties where Titan Capital held a first-position lien. The
18 construction loan would be secured by a second-position lien.

19 12. Titan Capital would charge the borrowers an interest rate between 12% and 18%. It
20 would make its profits on the spread between this interest rate and the 10 – 11% that TCREF/TFG
21 had to pay to investors.

22 13. Titan Capital would receive a deed of trust securing the loan. Titan Capital was then
23 to enter a pledge agreement with TCREF/TFG where Titan Capital would assign its beneficial
24 interest in the deed of trust to TCREF or TFG.

25 14. Beginning in February 2013, TFG began seeking investors and offering notes to
26 potential investors.

1 15. From February 2013 through September 2015, TFG offered and sold notes to at least
2 25 persons for a total of at least \$2,757,429. The notes were to accrue interest at either 10% or 11%
3 per annum. TFG would pay the investor monthly interest payments for four years then a balloon
4 payment on the maturity date. These investors have received returns totaling approximately
5 \$463,977.

6 16. Beginning in October 2013, TCREF began seeking investors and offering limited
7 liability company membership interests to potential investors.

8 17. From October 2013 through September 2015, TCREF sold limited liability company
9 membership interests to at least eight persons for a total of at least \$3,697,000. TCREF represented
10 to investors that TCREF would make annual distributions to investors from TCREF revenues that
11 would equal 10% of the amount invested by each respective investor. The TCREF investors have
12 received returns totaling approximately \$450,147.

13 18. TFG and TCREF found these offerees and investors by emailing potential investors on
14 customer lists purchased from marketing firms, holding seminars, contacting existing acquaintances,
15 obtaining referrals from existing investors, and by contacting customers of Child's and Rickert's other
16 businesses.

17 **Misrepresentations and omissions regarding use of investor funds**

18 19. TFG and TCREF funds were transferred to Titan Capital. Titan Capital then commingled
19 those funds with its capital and capital from related entities. When Titan Capital failed in October 2015,
20 TFG and TCREF failed too, resulting in investors losing almost the entire amount invested. In February
21 2016, Rickert caused Titan Capital and its related entities to go into voluntary receivership. After a few
22 months of the Receiver locating assets and reviewing records, it was revealed that Titan Capital's
23 operations differed significantly from representations made to TFG/TCREF investors: it had transferred
24 only a portion of its funds to escrow/title companies, owned few significant real property and deed of
25 trust assets, had made large transfers to Rickert-controlled entities, and may have been insolvent almost
26 from its inception.

1 20. TCREF and TFG had represented to investors and offerees that their funds would be
2 used by Titan Capital to fund hard money loans to borrowers who purchase, rehab, and sell residential
3 properties; Titan Capital's loan would be secured by a deed of trust that would be pledged to TCREF
4 and TFG.

5 21. Through representations by TFG/TCREF and their employees, several investors
6 understood that their funds would only go towards loans and that TFG/TCREF and Titan Capital
7 would pay for operational expenses with revenues from the interest charged to borrowers.

8 22. In TFG's private placement memorandum, which several investors received, TFG
9 estimated that 100% of funds raised from investors would go to investment, with \$0 going to the
10 company's operational expenses.

11 23. TFG's private placement memorandum also describes in detail its lending operations—
12 i.e. transferring money to Titan Capital to loan to borrowers—then states that investor funds would be
13 used to expand the existing loan program.

14 24. TCREF further represented to several investors that Titan Capital was a licensed
15 mortgage broker in Arizona and Nevada and was pursuing similar licensing in California.

16 25. TCREF and TFG described mortgage broker activities when they represented in their
17 PPMs that Titan Capital would pledge 100% of its interest in pools of loans, deeds of trust, mortgages
18 and similar interests that originated from Titan Capital's financing activities. This would secure
19 TCREF's and TFG's obligations to their investors. A copy of the pledge agreement was included in
20 TCREF's and TFG's private placement memorandums.

21 26. Under A.R.S. § 6-906(c), mortgage brokers "shall immediately deposit all monies
22 received by the mortgage broker in an escrow account with an escrow agent licensed pursuant to [A.R.S.
23 Title 6, Chapter 7]. Withdrawals shall only be disbursed according to the terms of the escrow
24 instructions. The escrow agent shall not be the mortgage broker." The same statute requires that
25 mortgage brokers not commingle their appraisal and credit investigation fees with the broker's other
26 monies.

27. From 2013 through 2015, TFG and TCREF received approximately \$6,454,429 from investors.

28. These funds were commingled with funds from Titan Capital, including approximately \$12.2 million of capital that was to go to Titan Capital's primary business: making hard-money loans to borrowers who purchase, rehab, and sell residential properties.

29. Of the approximately \$18.6 million of Titan Capital's funds that should have gone to lending, Titan Capital only transferred approximately \$8.8 million to escrow and title companies. Titan Capital received only approximately \$6.8 million from the title/escrow companies in return—far less than the principal amount transferred.

30. During 2013 – 2015, Titan Capital made several transfers that were not for funding loans to borrowers:

a) A net of approximately \$1.4 million to Rickert's entity, Infoclosure, and other Rickert-controlled entities;

b) Approximately \$4.5 million to pay an equity fund that had lent money to Titan Capital;

c) Approximately \$4.7 million for probable business expenses of Titan Capital and other related or Rickert-controlled entities;

d) Approximately \$1.9 million to a condominium development in Flagstaff managed by one of Titan Capital's and TCREF's major investors;

e) Approximately \$1.5 million to Titan Capital Management, an entity controlled by Rickert and Child through which they were to obtain payment;

f) Approximately \$223,000 for Child's expenses including child support payments and payments to the IRS; and

g) Approximately \$191,000 for Rickert's expenses.

1 31. Because of these various transfers and failure to conduct its business as represented,
2 Titan Capital's assets were insufficient to pay even a fraction of the amount owed to TFG/TCREF
3 investors.

4 **Omissions relevant to Adam Child's qualifications**

5 32. In TFG and TCREF private placement memorandums and offering materials,
6 Respondents represented that a key officer, Adam Child, was a competent manager with a proven
7 track record of success in real estate financing.

8 33. Respondents omitted material information that would allow investors to evaluate
9 Respondents' claims of Child's past success, the claims of Respondents' ability to generate returns,
10 and Child's ability to manage a company that would generate these returns. These omissions include:

11 a) On June 8, 2009, the Coconino County Superior Court entered judgment
12 against Child for \$2,957,227 which includes \$1,956,000 treble damages for fraud and racketeering
13 committed by Child in a real estate development enterprise near Flagstaff, Arizona.

14 b) In 2009, Child filed for bankruptcy protection. In his bankruptcy, Child sought
15 to discharge the judgment described above along with \$2,800,004 of unsecured claims which
16 included \$263,945 of credit card debt, several deficiencies on foreclosed properties totaling over
17 \$405,000, unpaid office rent, unpaid HOA fees, a \$40,000 deficiency on an automobile lease, and a
18 \$570,000 personal loan. Child's bankruptcy schedules also list \$130,000 of unpaid taxes and \$60,000
19 of unpaid child and spousal support.

20 c) On December 3, 2008, the Department of Financial Institutions found that
21 through statements made by Child, Child's company, Child Mortgage Corporation, violated A.R.S.
22 § 6-909(L) (making a false promise or misrepresentation or conceal an essential or material fact in
23 the course of the mortgage broker business), § 6-909(M) (failure to truthfully account for the monies
24 belonging to a party to a mortgage loan transaction or failure to disburse monies in accordance with
25 his agreements) and § 6-909(N) (engaging in illegal or improper business practices). In a consent
26

1 order signed by Child, DFI revoked the entity's mortgage broker license and ordered payment of a
2 \$2,705 penalty.

3 **II.**

4 **CONCLUSIONS OF LAW**

5 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
6 Arizona Constitution and the Securities Act.

7 2. Respondents offered or sold securities within or from Arizona, within the meaning of
8 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

9 3. Respondents violated A.R.S. § 44-1841 by offering or selling securities that were
10 neither registered nor exempt from registration.

11 4. Respondents violated A.R.S. § 44-1842 by offering or selling securities while neither
12 registered as a dealer or salesman nor exempt from registration.

13 5. Respondents violated A.R.S. § 44-1991 by (a) employing a device, scheme, or artifice
14 to defraud, (b) making untrue statements or misleading omissions of material facts, or (c) engaging
15 in transactions, practices, or courses of business that operate or would operate as a fraud or deceit.

16 6. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-
17 2032.

18 7. Respondents' conduct is grounds for an order of restitution pursuant to A.R.S. § 44-
19 2032.

20 8. Respondents' conduct is grounds for administrative penalties under A.R.S. § 44-2036.

21 **III.**

22 **ORDER**

23 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents'
24 consent to the entry of this Order, attached and incorporated by reference, the Commission finds that
25 the following relief is appropriate, in the public interest, and necessary for the protection of investors:
26

1 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, and any of Respondents'
2 agents, employees, successors and assigns, permanently cease and desist from violating the Securities
3 Act.

4 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry
5 of Order.

6 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondents shall pay
7 restitution in the principal amount of \$39,740.96, i.e. the amount of money the Receiver will
8 distribute to TFG investors. This amount is ordered as a result of the conduct set forth in the Findings
9 of Fact and Conclusions of Law. The distribution to TFG investors will constitute an offset to the
10 amount of restitution ordered.

11 IT IS FURTHER ORDERED that although Respondents' actions are ground for penalties,
12 the administrative penalties assessed are \$0 because Respondents are the subject of a court-
13 supervised receivership where the business is being liquidated, investors are receiving distributions
14 from the liquidated assets, and none of the original managers or personnel responsible for Securities
15 Act violations have control of the entities.

16 IT IS FURTHER ORDERED, that if a Respondent fails to comply with this order, the
17 Commission may bring further legal proceedings against that Respondent, including application to
18 the superior court for an order of contempt.

19 IT IS FURTHER ORDERED, that no finding of fact or conclusion of law contained in this
20 Order shall be deemed binding against any Respondent under this Docket Number who has not
21 consented to the entry of this Order.

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1 IT IS FURTHER ORDERED that this Order shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

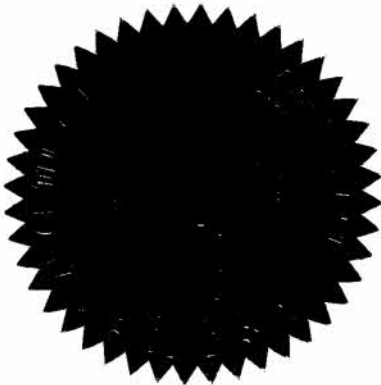
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4 
5 CHAIRMAN BURNS


COMMISSIONER DUNN

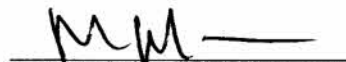
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7 
8 COMMISSIONER TOBIN


COMMISSIONER KENNEDY


COMMISSIONER OLSON



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 7 day of February, 2019.

14 
15 MATTHEW J. NEUBERT
16 EXECUTIVE DIRECTOR

17 _____
DISSENT

18
19 _____
DISSENT

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21 This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator,
voice phone number (602) 542-3931, e-mail kcannon@azcc.gov.

22 (RJM)
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CONSENT TO ENTRY OF ORDER

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2 1. Respondents admit the jurisdiction of the Commission over the subject matter of this
3 proceeding. Respondents acknowledge that they have been fully advised of their right to a hearing to
4 present evidence and call witnesses and Respondents knowingly and voluntarily waive any and all
5 rights to a hearing before the Commission and all other rights otherwise available under Article 11
6 of the Securities Act and Title 14 of the Arizona Administrative Code. Respondents acknowledge
7 that this Order constitutes a valid final order of the Commission.

8 2. Respondents knowingly and voluntarily waive any right under Article 12 of the
9 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting
10 from the entry of this Order.

11 3. Respondents acknowledge and agree that this Order is entered into freely and
12 voluntarily and that no promise was made or coercion used to induce such entry.

13 4. Respondents acknowledge that they have been represented by an attorney in this
14 matter, Respondents has reviewed this Order with their attorney, **Ryan W. Anderson of GUTTILLA**
15 **MURPHY ANDERSON**, and understand all terms it contains.

16 5. Respondents admit the Findings of Fact and Conclusions of Law contained in this
17 Order. Respondents agree that they shall not contest the validity of the Findings of Fact and
18 Conclusions of Law contained in this Order in any present or future proceeding in which the
19 Commission is a party.

20 6. Respondents further agree that they shall not deny or contest the Findings of Fact and
21 Conclusions of Law contained in this Order in any present or future: (a) bankruptcy proceeding, or
22 (b) non-criminal proceeding in which the Commission is a party (collectively, "proceeding(s)").
23 They further agree that in any such proceedings, the Findings of Fact and Conclusions of Law
24 contained in this Order may be taken as true and correct and that this Order shall collaterally estop
25 them from re-litigating with the Commission or any other state agency, in any forum, the accuracy
26 of the Findings of Fact and Conclusions of Law contained in this Order. In the event Respondents

1 pursue bankruptcy protection in the future, they further agree that in such bankruptcy proceeding,
2 pursuant to 11 U.S.C. § 523(a)(19), the following circumstances exist:

3 A. The obligations incurred as a result of this Order are a result of the conduct set forth
4 in the Findings of Fact and Conclusions of Law in the Order and are for the violation of Arizona
5 state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

6 B. This Order constitutes a judgment, order, consent order, or decree entered in a state
7 proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by
8 Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages, fine, penalty,
9 citation, restitution payment, disgorgement payment, attorney fee, cost or other payment owed by
10 Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

11 7. By consenting to the entry of this Order, Respondents agree not to take any action or
12 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
13 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual
14 basis.

15 8. While this Order settles this administrative matter between Respondents and the
16 Commission, Respondents understand that this Order does not preclude the Commission from
17 instituting other administrative or civil proceedings based on violations that are not addressed by this
18 Order.

19 9. Respondents understand that this Order does not preclude the Commission from
20 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
21 that may be related to the matters addressed by this Order.

22 10. Respondents understand that this Order does not preclude any other agency or officer
23 of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
24 proceedings that may be related to matters addressed by this Order.

1 11. Respondents agree that they will not apply to the state of Arizona for registration as a
2 securities dealer or salesman or for licensure as an investment adviser or investment adviser
3 representative at any future time.

4 12. Respondents agree that they will not exercise any control over any entity that offers
5 or sells securities or provides investment advisory services within or from Arizona until such time as
6 all restitution under this Order are paid in full.

7 13. Respondents agree that they will continue to cooperate with the Securities Division
8 including, but not limited to, providing complete and accurate testimony at any hearing in this matter
9 and cooperating with the state of Arizona in any related investigation or any other matters arising
10 from the activities described in this Order.

11 14. Respondents consent to the entry of this Order and agree to be fully bound by its terms
12 and conditions.

13 15. Respondents acknowledge and understand that if they fail to comply with the
14 provisions of the order and this consent, the Commission may bring further legal proceedings against
15 Respondents, including application to the superior court for an order of contempt.

16 16. Peter S. Davis represents that he is the court-appointed receiver of Titan Capital and
17 has been authorized to enter into this Order for and on behalf of Titan Capital and TFG.

18 **[Signature pages follow]**
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Titan Capital Holdings LLC

By: 
Peter S. Davis, Court-Appointed Receiver

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO BEFORE me this 12th day of January, 2019.



PATRICIA A. BOLDING
Notary Public - Arizona
Maricopa County
Expires 01/31/2021


NOTARY PUBLIC

My commission expires:

01/2021

Titan Funding Group I, LLC

By: [Signature]
Peter S. Davis, Receiver for Titan Capital
Holdings LLC, its manager

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO BEFORE me this 16th day of January, 2019.



PATRICIA A. BOLDING
Notary Public - Arizona
Maricopa County
Expires 01/31/2021

[Signature]
NOTARY PUBLIC

My commission expires:

01/2021

1 SERVICE LIST FOR: *Titan Funding Group I, LLC et al.*

2 Roderick Rickert
3 501 W Laredo Ave
4 Gilbert, AZ 85233

5 *Officer of respondent TCREF*

6 Ashley Adams
7 ADAMS & ASSOCIATES, PLC
8 7502 E. Monterey Way
9 Scottsdale, AZ 85251

10 *Attorney for respondent Roderick Rickert*

11 Lee Stein
12 Anne Chapman
13 Anna Finn
14 MITCHELL STEIN CAREY CHAPMAN
15 One Renaissance Square
16 Two North Central Ave, St. 1450
17 Phoenix, AZ 85004

18 *Attorneys for respondent Adam Child and respondent spouse Erin Child*

19 Ryan W. Anderson
20 GUTTILLA MURPHY ANDERSON
21 City North
22 5415 E. High St., Suite 200
23 Phoenix, AZ 85054

24 *Attorneys for receiver of respondents Titan Capital and TFG*

1 SERVICE LIST FOR: *Titan Funding Group I, LLC et al.*

2 Roderick Rickert
3 501 W Laredo Ave
4 Gilbert, AZ 85233

5 *Officer of respondent TCREF*

6 Ashley Adams
7 ADAMS & ASSOCIATES, PLC
8 7502 E. Monterey Way
9 Scottsdale, AZ 85251

10 *Attorney for respondent Roderick Rickert*

11 Lee Stein
12 Anne Chapman
13 Anna Finn
14 MITCHELL STEIN CAREY CHAPMAN
15 One Renaissance Square
16 Two North Central Ave, St. 1450
17 Phoenix, AZ 85004

18 *Attorneys for respondent Adam Child and respondent spouse Erin Child*

19 Ryan W. Anderson
20 GUTTILLA MURPHY ANDERSON
21 City North
22 5415 E. High St., Suite 200
23 Phoenix, AZ 85054

24 *Attorneys for receiver of respondents Titan Capital and TFG*